

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	Cuid MI0146
CHARTER COMMUNICATIONS)	
)	File No. CSB-A-0672
Appeal of Local Rate Order of the Township of)	
Saginaw, Michigan)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: July 15, 2002

Released: July 17, 2002

By the Acting Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Charter Communications (“Charter”), the franchised operator of a cable system serving the Township of Saginaw, Michigan (the “Township”), has appealed the rate decision adopted by the Township on January 29, 2002. The contested rate order denied the operator’s request to increase rates charged for basic service and equipment.¹ The Township did not file an opposition to the appeal.

2. Under the Commission’s rules, rate orders issued by local franchising authorities (“LFAs”) may be appealed to the Commission.² In ruling on an appeal of a local rate order, the Commission will not conduct a *de novo* review, but instead will sustain the franchising authority’s decision provided there is a reasonable basis for that decision, and will reverse a franchising authority’s decision only if the franchising authority unreasonably applied the Commission’s rules in its local rate order.³ If the Commission reverses a franchising authority’s decision, it will not substitute its own decision but instead will remand the issue to the franchising authority with instructions to resolve the cases consistent with the Commission’s decision on appeal.⁴

¹ Appeal of Local Rate Order (February 8, 2002); Attachment A, Letter from Ronald Lee, Township Manager, to David Mothershed, General Manager, Charter Communications (January 29, 2002).

² 47 C.F.R. § 76.944.

³ See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, 8 FCC Rcd 5631, 5731 (1993) (“*Rate Order*”); See also Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992, Rate Regulation, 9 FCC Rcd 4316, 4346 (1994) (“*Third Reconsideration*”).

⁴ *Rate Order*, 8 FCC Rcd at 5732.

3. An operator that wants to increase its BST rate has the burden of demonstrating that the increase is in conformance with the Commission's rules.⁵ In determining whether the operator's rates conform with our rules, a franchising authority may direct the operator to provide supporting information.⁶ After reviewing an operator's rate forms and any other additional information submitted, the franchising authority may approve the operator's rate increases or issue a written decision explaining why the operator's rates are not reasonable.⁷ If the franchising authority determines that the operator's proposed rates exceed the maximum permitted rate ("MPR") as determined by the Commission's rules, it may prescribe a rate different from the proposed rate or order refunds, provided that it explains why the operator's rate or rates are unreasonable and the prescribed rate is reasonable.⁸

II. DISCUSSION

4. Charter contends that the Commission should reverse the local rate decision because the Township has failed to provide a proper written explanation or analysis of its decision disapproving the proposed rate increase and because the Commission has repeatedly overruled local franchising authorities that reject legitimate rate increases for improper reasons.⁹

5. In a one-page letter, dated January 29, 2002, the Township Manager notified Charter that the Saginaw Charter Township Board, at its meeting on January 28, 2002, officially denied Charter's request to raise rates.¹⁰ The Board stated that it has taken this position on behalf of all resident subscribers who "have expressed a general indignation and frustration with Charter." In spite of the rate justifications submitted by Charter in its Form 1205 and Form 1240, the Board voted against granting the rate increase. The letter sent by the Township to Charter fails to demonstrate that the Township's denial of Charter's rate increase is based on the Commission's rules governing rates.

6. The Township must follow the Commission's rate regulations when reviewing an operator's rate filing.¹¹ As we stated in *Falcon Cable Media*, if a local franchising authority does not dispute the bases for the figures presented in a cable operator's rate forms and has not discovered any mathematical errors in the forms, the LFA should approve the operator's rate as derived from those forms.¹² If an LFA rejects an operator's proposed rates, it must issue a written decision affirmatively demonstrating why the rates are unreasonable.¹³

⁵ 47 C.F.R. § 76.937(a).

⁶ See *Rate Order*, 8 FCC Rcd at 5718-19; *Third Reconsideration*, 9 FCC Rcd at 4348.

⁷ 47 C.F.R. § 76.936; see *Ultracom of Marple Inc.*, 10 FCC Rcd 6640, 6641-42 (CSB 1995).

⁸ See *Century Cable of Southern California*, 11 FCC Rcd 501 (CSB 1995); *TCI of Iowa, Inc.*, 13 FCC Rcd 12020, 12022 (CSB 1998).

⁹ Charter Appeal at 1-3.

¹⁰ Charter Appeal at Attachment A.

¹¹ See *TCI of Southeast Mississippi*, 10 FCC Rcd 8728 (CSB 1995), *reconsideration denied on other grounds*, 13 FCC Rcd 11080 (CSB 1998); *Century Cable of Southern California*, 11 FCC Rcd at 501.

¹² 13 FCC Rcd 11996, 11998 (CSB 1998).

¹³ 47 C.F.R. § 76.936; *Rate Order*, 8 FCC Rcd at 5715-5716.

7. We find that the Township's denial of Charter's rate increase without explanation does not meet the standards for a written decision under the Commission's rules.¹⁴ Consequently, we grant the appeal and remand this case to the Township for further consideration consistent with our findings.

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that the Appeal of Local Rate Order filed by Charter Communications, on February 8, 2002 **IS GRANTED** and the local rate order of the Township of Saginaw, Michigan **IS REMANDED** to the Township for further consideration consistent with the terms of this Memorandum Opinion and Order.

9. **IT IS FURTHER ORDERED** that the Township of Saginaw, Michigan shall not enforce matters remanded for further consideration pending further action by the Township on those matters.

10. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules. 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Acting Chief, Policy Division
Media Bureau

¹⁴ 47 C.F.R. § 76.936(a), (b); see *Rate Order*, 8 FCC Rcd at 5715; *Falcon Cable Media*, 13 FCC Rcd at 11998.